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22 March 1971

MEMORANDUM FOR: Director of Personnel

SUBJECT : Noncompetitive Appointment of Agency Employees
to Positions in the Competitive Service

1. This is to report on my further review of this subject following our discussion on 17 March about [redacted] memorandum for the record on Executive Order 11219 and his subsequent comments on the matter of reciprocity. I believe this gives you the essential background information for further discussions with OGC.

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2. I have again reviewed the question of reciprocity with Mr. Clifford Hailey who represented the Department of State in working with the Civil Service Commission to develop the 1965 interchange agreement. Mr. Hailey again confirmed my understanding that there is no paper which in itself constitutes "the interchange agreement" between the Department and the CSC. Mr. Hailey reaffirmed that the Executive Order represented the Commission's side of the agreement and that the Department's side is contained in Foreign Affairs Manual Circular #359 which was published September 25, 1965 (see Tab A). Mr. Hailey assured me that there is nothing more to the agreement than the provisions contained in that circular which have since been codified in the Foreign Affairs Manual. As a matter of interest Mr. Hailey also told me that the Department has just received word of the Commission's agreement to include the new FSRU group under the provisions of the Executive Order.

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3. Concerning [redacted] comment, I see nothing at this point to suggest that the Commission would demand an unacceptable form of reciprocity in negotiating a similar arrangement with this Agency. In fact, our background file of past experience shows that the Commission has been quite willing to work something out. In this regard [redacted] recalls a personal conversation when Commissioner Hampton, before becoming Chairman, raised the issue and offered his cooperation in developing an interchange agreement if this Agency so desired.

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4. The specifics of such an agreement would of course be determined through actual negotiations with the Commission and would be designed to suit our employment procedures which differ considerably from those of the Department of State. It seems likely that an interchange agreement could be reached if this Agency agreed to accept

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GROUP 1
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career status in the competitive service as equivalent to Career Employee status upon appointment to this Agency and also to equate time in career conditional status in the competitive service with time in Career Provisional status in this Agency. It also appears that the matter of the availability of personnel records could be resolved in a way acceptable to this Agency. Tab B presents the type of Notice which would probably be issued to announce this Agency's participation in such an agreement. The same material would be incorporated in appropriate Agency regulations.

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 Chief Review Staff

Atts
Tabs A and B

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Foreign Affairs Manual Circular

SUBJECT: Noncompetitive Interchange Between Foreign Service and Civil Service

No. 359

September 24, 1965

1. Purpose

This circular announces the provisions of Executive Order 11219 which authorizes the noncompetitive appointment of present or former career Foreign Service officers and employees in the competitive service in any agency with acquisition of status, and the corresponding provisions of the Department's policy authorizing the appointment of present or former career or career-conditional Civil Service employees in the Foreign Service.

2. Background

The Department and the Civil Service Commission have reached an agreement providing for the interchange of career personnel between the Foreign Service and the competitive Civil Service.

This means that former career personnel of the Foreign Service (FSO or FSS), and such present personnel desiring to transfer, will be eligible, under certain conditions, for noncompetitive career or career-conditional appointment in any Federal agency which desires to appoint them. The President has authorized the Civil Service Commission by Executive order to waive the requirement for competitive examination and appointment for such Foreign Service officers and employees.

In order to provide a comparable basis for the appointment of career or career-conditional Civil Service employees in the Foreign Service, the Department has agreed to waive written test requirements under certain conditions for career or unlimited appointment to the Foreign Service Staff Corps and to credit service under a Civil Service career type appointment toward the probationary period in the Staff. In addition, the agreement recognizes the current provisions of the Foreign Service Act as a basis for the lateral entry appointment of present or former Civil Service personnel as Foreign Service officers.

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3. Effect of Agreement

The Department previously informed employees through the News Letter of plans for the career management program which involves the re-orientation of our recruitment, examining, assignment, development and promotion programs to reflect the needs for a variety of functional specialists in today's Foreign Service. These programs will be supported by a more effective manpower planning system.

As these plans progress it is anticipated that we will need to employ a variety of recruiting devices, including lateral entry, to meet our varied personnel requirements.

The agreement between the Department and the Civil Service Commission will facilitate the interchange of career employees between the Foreign Service and the competitive Civil Service by authorizing the appointment of present or former employees of one service to the other service as described in succeeding sections of this circular. This will greatly enhance the ability of the Department and other agencies to utilize manpower resources more effectively.

4. Noncompetitive Civil Service Appointment of Present or Former Foreign Service Personnel

Under the provisions of Executive Order 11219 a present or former officer or employee of the Foreign Service may be appointed in the Competitive Civil Service in accordance with regulations and conditions prescribed by the Civil Service Commission.

a. The basic eligibility requirements stated in the Executive order are that the present or former officer or employee of the Foreign Service:

- (1) Must be qualified for the position in the competitive service;
- (2) Must have been appointed in the Foreign Service under authority of the Foreign Service Act of 1946, as amended, or legislation that supplements or replaces that Act; and
- (3) Must have served in the Foreign Service under an unlimited, career-type appointment and, immediately before his separation from that appointment, he must have completed at least one year of continuous service under one or more non-temporary appointments in the Foreign Service which may include the service that made him eligible for his career-type appointment.

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- b. A present or former officer or employee of the Foreign Service who meets the above requirements may be appointed in the competitive service at any time after his separation from the Foreign Service if he has completed at least three years of substantially continuous service under one or more non-temporary appointments as described in paragraph (3) above, or if he is entitled to preference under section 2 of the Veterans' Preference Act of 1944, as amended. Otherwise he must be appointed within three years after his separation from the Foreign Service.
- c. A person appointed under the provisions of the Executive order as described in a and b above will be appointed as a career employee if he:
 - (1) Has completed at least three years of substantially continuous service under one or more non-temporary appointments in the Foreign Service immediately before his separation from the unlimited, career-type appointment in the Foreign Service which may include the service that made him eligible for such appointment; or
 - (2) Is appointed to a position in the competitive service required by law or Executive order to be filled on a permanent or career basis.
- d. A person appointed under the provisions of the Executive order as described in a and b above who does not meet the requirements of c(1) or c(2) above will be appointed as a career-conditional employee and his appointment will be converted to a career appointment upon completion of three-year service requirement for career tenure in accordance with the regulations of the Civil Service Commission.

For purposes of completing the required service for career tenure as described in the above paragraph, service in the Foreign Service is creditable only if the person concerned is appointed to a non-temporary position in the competitive service under the provisions of the Executive order within 30 days after his separation from the Foreign Service. A person so appointed more than 30 days after his separation from the Foreign Service will be required to serve a full three-year period as a career-conditional employee.

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- e. A person appointed to a non-temporary position in the competitive service under the provisions of the Executive order acquires a competitive status automatically on appointment.
- f. The Executive order provides that any law, Executive order or regulation that would disqualify an applicant for appointment in the competitive service shall also disqualify a person for appointment under the Executive order.
- g. The Executive order defines an officer or employee of the Foreign Service as one who was appointed in any agency under authority of the Foreign Service Act of 1946, as amended, or legislation that supplements or replaces that Act.

5. Appointment of Present or Former Civil Service Personnel as Foreign Service Officers

- a. A present or former Civil Service employee may be appointed as a Foreign Service officer in any class from FSO-1 through FSO-7 for which he is qualified under the lateral entry provisions of Section 517 of the Foreign Service Act of 1946, as amended:
Provided, that:
 - (1) He has served under a career or career-conditional appointment and has completed four years' service in a Government agency in a position of responsibility (or three years, if over age 31);
 - (2) He is a citizen of the United States and has been for at least 10 years and, if married, is married to a citizen of the United States; and
 - (3) He passes comprehensive mental and physical examinations as prescribed by the Board of Examiners for the Foreign Service and meets the Department's security standards.
(The BEX examination presently consists of a review of qualifications and background records and an oral examination.)
- b. Appointments of such individuals as Foreign Service officers under the lateral entry program will be made in accordance with the needs of the Foreign Service with full career tenure and no probationary period will be required. Application may be made at any time after the required period of service has been completed.

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6. Appointment as a Foreign Service Staff Officer or Employee

The Department will be guided by the following policy in appointing present or former career or career-conditional Civil Service employees in the Foreign Service Staff:

a. A present or former Civil Service employee may be given a regular staff (career) appointment in accordance with the provisions of this circular and the needs of the Service to any type of position in the Foreign Service Staff for which he is qualified: Provided, that he served under a career or career-conditional appointment and was employed continuously for at least one year under one or more non-temporary appointments creditable toward career tenure in the competitive Civil Service.

A person meeting the basic eligibility requirement stated above will be deemed to have met any written test requirement for appointment to any position in the Foreign Service Staff for which he is qualified, except positions comparable to those for which the Civil Service Commission requires a written examination or skill test for noncompetitive appointment.

b. A person may be appointed in the Foreign Service Staff under the provisions of this circular only during a three-year period following his separation from a career or career-conditional appointment in the Civil Service, but the three-year limitation will not apply to:

- (1) A person entitled to veterans preference, or
- (2) A person who has completed at least three years of substantially continuous service creditable toward the service requirement for career tenure in the Civil Service.

c. Each person appointed in the Foreign Service Staff under paragraph a above shall be given a regular staff (career) appointment if he has completed at least three years of substantially continuous service creditable toward the service requirement for career tenure in the Civil Service and shall not be subject to any probationary period.

d. Each person appointed in the Foreign Service Staff under paragraph a above who does not qualify for a regular staff (career) appointment shall be given an unlimited staff appointment subject to completion of a probationary period as specified in (1), (2) or (3) below:

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- (1) One year if he has completed 2, but less than 3 years of substantially continuous service creditable toward the service requirement for career tenure in the Civil Service and his appointment is effected within 120 days after separation from a career or career-conditional appointment in the Civil Service;
- (2) Two years if he has completed less than 2 years of such creditable service in the Civil Service and his appointment is effected within 120 days after separation from a career or career-conditional appointment in the Civil Service; or
- (3) Thirty months if he has less than 3 years of such creditable service and his appointment is effective more than 120 days after separation from a career or career-conditional appointment in the Civil Service.

e. An unlimited staff appointment made under paragraph d above shall automatically convert to a career Staff appointment upon satisfactory completion of the probationary period.

7. Availability of Records

In order to effectuate the provisions of Executive Order 11219 for the noncompetitive appointment of present or former Foreign Service career personnel in the competitive Civil Service, the Director General of the Foreign Service is authorized in accordance with the provisions of Sec. 612 of the Foreign Service Act of 1946, as amended, to designate officers of other Federal departments and agencies to inspect the efficiency records and other pertinent personnel records of any officer or employee of the Service who has applied for appointment with the department or agency concerned under the provisions of Executive Order 11219.

(DG/PPS)

(NOTE: Number of last circular issued: FAMC No. 358.)

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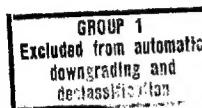
Noncompetitive Interchange Between Service
in the Central Intelligence Agency and
the Competitive Civil Service

1. This notice announces the provisions of E. O. _____ which authorizes the noncompetitive appointment with acquisition of status of present or former Career Employees of the Central Intelligence Agency to positions in the competitive service, and the corresponding provisions of Agency policy authorizing the appointment of present or former career or career-conditional Civil Service employees to positions in the Central Intelligence Agency.

2. An agreement has been reached with the Civil Service Commission providing for the interchange of career personnel between the Agency and the competitive Civil Service. By this Executive Order the President has authorized the Commission to waive the requirement for competitive examination and appointment for present or former career employees of the Agency. In order to provide a comparable basis for the appointment of career or career-conditional Civil Service employees, this Agency has agreed to credit service under career or career-conditional appointment in the competitive service toward the career service requirements of this Agency.

3. Noncompetitive Civil Service Appointment of Present or Former Agency Personnel. Under the provisions of Executive Order _____ a present or former employee of the Central Intelligence Agency may be appointed in the Competitive Civil Service in accordance with regulations

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and conditions prescribed by the Civil Service Commission.

a. The basic eligibility requirements stated in the Executive Order are that the present or former employee of the CIA:

- (1) must be qualified for the position in the competitive service;
- (2) must have been appointed in the Central Intelligence Agency under authority of the Central Intelligence Agency Act of 1949, as amended, or legislation which supplements or replaces that Act; and,
- (3) must have served in the Central Intelligence Agency under an unlimited, career-type appointment and, immediately before his separation from that appointment, have completed at least one year of continuous service under a non-temporary appointment in the Central Intelligence Agency which may include the service which made him eligible for his career-type appointment.

b. A present or former employee of the Central Intelligence Agency who meets the above requirements may be appointed in the competitive service at any time after his separation from the Agency if he has completed at least three years of substantially continuous service as described in paragraph a(3) above, or if he is entitled to preference under section 2 of the Veterans' Preference Act of 1944, as amended. Otherwise he must be appointed in the competitive service within three years after his separation from the Agency.

c. A person appointed under the provisions of the Executive

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Order as described in a and b above will be appointed as a career employee if he:

- (1) has completed at least three years of substantially continuous service under one or more non-temporary appointments in the Central Intelligence Agency immediately before his separation from the unlimited, career-type appointment in the Agency which may include the service which made him eligible for such appointment; or
- (2) is appointed to a position in the competitive service required by law or Executive Order to be filled on a permanent or career basis.

d. A person appointed under the provisions of the Executive Order as described in a and b above who does not meet the requirements of c(1) or c(2) above will be appointed as a career-conditional employee and his appointment will be converted to a career appointment upon completion of the service requirement for career tenure in accordance with the regulations of the Civil Service Commission. For purposes of completing the required service for career tenure as described in this paragraph, service in the Agency is creditable only if the person concerned is appointed to a non-temporary position in the competitive service under the provisions of the Executive Order within 30 days after his separation from the Agency. A person so appointed more than 30 days after his separation from the Agency will be required to serve a full three-year period as a career-conditional employee.

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e. A person appointed to a non-temporary position in the competitive service under the provisions of the Executive Order acquires a competitive status automatically upon appointment.

f. The Executive Order also provides that any law, Executive Order, or regulation which would disqualify an applicant for appointment in the competitive service shall also disqualify a person for appointment under the Executive Order.

g. The Executive Order defines an employee of the Central Intelligence Agency as one who was appointed under authority of the Central Intelligence Agency Act of 1949.

4. Appointment of Present or Former Personnel of the Competitive Civil Service as Employees of the Central Intelligence Agency. The Agency will be guided by the following policy in appointing present or former career or career-conditional Civil Service employees under a career appointment in the Agency:

a. A present or former employee of the Competitive Civil Service may be given career-type appointment in accordance with the provisions of this notice and the needs of the Agency to any type of position in the Agency for which he is qualified, provided he meets the Agency's security and medical standards for employment and has served under a career or career-conditional appointment and was employed continuously for at least one year under one or more non-temporary appointments creditable toward career tenure in the competitive Civil Service.

b. A present or former Civil Service employee who meets the above requirements may be appointed in the Agency at any time after

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his separation from the Competitive Civil Service if he has completed at least three years of substantially continuous service under one or more non-temporary appointments. Otherwise he must be appointed within three years after his separation from the Competitive Civil Service.

c. A present or former Civil Service employee appointed in the Central Intelligence Agency under a above shall be appointed as a Career Employee if he has completed at least three years of substantially continuous service creditable toward the service requirement for career tenure in the Civil Service and shall not be subject to any period of service in career provisional status.

d. A present or former Civil Service employee appointed under a above who does not qualify for a Career Employee appointment under c above shall be given a Career Provisional appointment. The number of months served under a Civil Service career-conditional appointment will be credited toward the number of months of career-provisional service required by the Agency prior to conversion to Career Employee status.

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